

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHARLES TINGLER,
Plaintiff,

vs.

INTERNAL REVENUE SERVICE,
Defendant.

Case No. 1:25-cv-64

McFarland, J.
Litkovitz, M.J.

ORDER

Plaintiff, a resident of Defiance, Ohio, has filed a pro se civil complaint against the Internal Revenue Service (“IRS”) seeking the immediate issuance of a \$600.00 refund check promised by the IRS. (Doc. 1-1 at PAGEID 21, 22). In a case seeking a tax refund under 28 U.S.C. § 1346, the United States, and not the IRS, is the proper defendant. *See Nix El v. Internal Revenue Serv.*, 233 F. Supp. 3d 65, 67 (D.D.C. 2017) (“26 U.S.C. § 7422 provides an avenue for filing civil suits for a tax refund, but requires that such a suit “be maintained only against the United States.”) (citing 26 U.S.C. § 7422(f)(1)). “The venue of these suits is proper ‘in the judicial district where the plaintiff resides.’” *Id.* (citing 28 U.S.C. § 1402; *Scott v. United States*, 449 F.2d 1291, 1292 (8th Cir. 1971) (“It is clear that suits for refund of income taxes may be filed only against the United States and that venue must be laid in the judicial district in which the individual bringing the action resides.”). *See also Cicotelli v. United States*, 545 F. Supp. 2d 609, 611 (W.D. Tex. 2008) (Pennsylvania taxpayers seeking a refund of taxes allegedly paid in excess to the IRS transferred to the Eastern District of Pennsylvania under 28 U.S.C. § 1406(a)).

“The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). As the Southern District

of Ohio is the improper venue for plaintiff's claims against the defendant, the Court shall transfer this action to the Northern District of Ohio, Western Division, for further proceedings.

Accordingly, the Clerk of Courts is hereby **DIRECTED TO TRANSFER** this case to the Northern District of Ohio, Western Division, for all further proceedings.

IT IS SO ORDERED.

Date: 2/16/2025


Karen L. Litkovitz, Magistrate Judge
United States District Court